

THE LAW OF UKRAINE

On Amending the Law of Ukraine “On Insurance”

The Verkhovna Rada hereby decrees to:

I. Make the following amendments to the Law of Ukraine “On Insurance” (Vidomosti Verkhovnoyi Rady Ukrainy, 2002, No.7, p.50, No.8, p.62, No.14, p.96; 2003, No.38, p.313; 2004, No.2, p.6, No.19, p.254, No.26, p.362; 2005, No.1, p.1, p.10):

1. In Article 2:

1) Paragraph one shall be replaced with new paragraphs as follows:

“Insurers that have the right to perform insurance activity within the territory of Ukraine shall be the following:

- financial institutions established in the form of joint-stock, universal, commandite or additional liability companies according to the Law of Ukraine “On Business Partnerships” in consideration of the fact that participants of such financial institutions should be at least three in number, as well as other peculiarities provided by this Law, and are licensed according to the established procedure to perform insurance activities (hereinafter referred to as resident insurers);

- permanent representative offices in the form of foreign insurance companies registered by the Authorized body according to the present Law, which are also duly licensed for performing insurance activities (hereinafter referred to as affiliates of non-resident insurance companies).

Non-resident insurers shall be established financial institutions and licensed for performing insurance activities in accordance with legislation of the states, where they are registered.

Insurance activity in mandatory types of insurance shall be performed by the insurer that has a legal entity status in accordance with the effective Ukrainian legislation.

2) Article shall be supplemented with the new paragraph two as follows:

“Provisions of this Law applied to resident insurers, shall be applied to affiliates of non-resident insurers in consideration of peculiarities established by this Law.”

3) in paragraph five:

the words “During establishment of the insurer” shall be supplemented by the word “resident”;

the words “insurer’s fund” shall be supplemented with the word “resident”.

4) paragraph six shall be supplemented with the new paragraphs as follows:

“The procedure of registration, licensing, supervision over activities, application of enforcement measures and liquidation of affiliates of non-resident insurers shall be established by the present Law and regulations of the Authorized body.

A non-resident insurer shall have the right to set up affiliates in Ukraine under the following conditions:

1) the state, where a non-resident insurer is registered does not belong to the states that do not participate in the international cooperation for prevention and combating of legalization of illegal income and financing of terrorism, and cooperates with the Financial Action Task Force of Money Laundering;

2) a memorandum on information is signed (an agreement is concluded) between the authorized body for supervision over insurance companies of the state, where a non-resident insurer is registered, and the Authorized body of Ukraine;

3) the state supervision is conducted over insurance activities of a non-resident insurer according to the legislation of the country of registration;

4) an international treaty on counteraction to tax evasion and avoiding of double taxation is signed between Ukraine and the country, where a non-resident insurer is registered;

5) a non-resident insurer is located within the territory of the states or separate territories, which under the decision of the UN Organization for Economic Cooperation and Development do not have an off-shore status, or within the territory of other states if a non-off-shore status of such insurer is confirmed by an expert opinion of an appropriate trade and economic mission;

6) own equity of a non-resident insurer shall be at least EUR150 mln;

7) financial reliability (sustainability) rating of a non-resident insurer shall comply with the requirements established by the Authorized body;

8) the minimum size of a security deposit at the account of authorized resident banks licensed for performing transactions throughout Ukraine and at the moment of such establishment are not in the procedure of sanation, financial recovery or bankruptcy, at the moment of registration shall be at least the minimum size of the charter fund of the resident insurer provided by Article 30 of the present Law.

The procedure of treatment of the account, on which such deposit is accounted shall be established by the joint decision of the Cabinet of Ministers of Ukraine and the National Bank of Ukraine.

The requirements to the security deposit shall be determined by the Authorized body;

9) availability of a written irrevocable obligation of a non-resident insurer on its unconditional fulfillment of obligations arisen in the course of activity of its affiliate within the territory of Ukraine;

10) Ukrainian insurers have the right to set up their affiliates within the territory of a foreign state, where a non-resident insurer was set up and is acting.

Registration of affiliates of non-resident insurers shall be performed by the Authorized body.

Activities of affiliates of a non-resident insurer shall comply with the requirements established by the present Law and/or regulations of the Authorized body.”

2. In Article 30:

1) paragraph two shall be stated as follows:

“availability of the paid charter fund for resident insurers or a security deposit for affiliates of non-resident insurers and availability of the insurer’s guarantee fund”;

2) paragraph five shall read as follows:

“The minimum size of the charter fund (security deposit) of the insurer involved in the types of insures other than life insurance shall be established in the amount equivalent of EUR1 mln, and the insurer involved in life insurance – EUR10 mln against the exchange rate of the Ukrainian currency.”

3. Article 31 shall be supplemented with part twenty-one as follows:

“Insurance reserves of affiliates of non-resident insurers, except for a portion of insurance reserves in the size established by the Authorized body, in which they may be represented by the rights of demand to non-resident re-insurers shall be placed within the territory of Ukraine”

Parts twenty-one and twenty-two of this Article shall be deemed parts twenty-two and twenty-three respectively.

4. Article 37 shall be supplemented by the following clause after clause 2:

“revoke the license for performing insurance activities by an affiliate of a non-resident insurer if a non-resident insurer is deprived of its license for performing insurance activities, or if it was liquidated/declared bankrupt in the state of registration”.

Clauses 3-11 shall be deemed clauses 4-12 respectively.

5. In Article 38:

1) in paragraph four the word “insurer” shall be supplemented with the word “resident”.

2) a new paragraph shall be added as follows:

“The Authorized body shall establish a special procedure of issuing licenses, the list of documents attached to the application for licensing by the affiliate of a non-resident insurer, based on the rules of equal access to the financial service market”.

6. In Article 43:

1) paragraph one after the word “insurer” shall be supplemented with the word “resident”;

2) paragraph six after the word “insurer” shall be supplemented with the word “resident”;

3) paragraph seven after the word “insurer” shall be supplemented with the word “resident”;

4) paragraph ten after the word “insurer” shall be supplemented with the word “resident”;

5) paragraph six after the word “insurers” shall be supplemented with the word “resident”;

6) paragraph thirteen after the word “insurer” shall be supplemented with the word “resident”;

7) in paragraph fourteen:

paragraph six after the word “insurer” shall be supplemented with the word “resident”;

the words “foreign insurers” shall be replaced with the words “non-resident insurers”;

8) paragraph sixteen after the word “insurer” shall be supplemented with the word “resident”;

9) paragraph eighteen after the word “insurer” shall be supplemented with the word “resident”;

add a new paragraph as follows:

“Demands of the insured, beneficiaries and creditors shall be satisfied at the expense of the assets of the affiliate of a non-resident insurer, and in the event of their inadequacy – at the expense of the security deposit, and in the event of inadequacy of the two foregoing – at the expense of the non-resident-insurer that set up such affiliate.”

II. Final Provisions.

1. This Law shall take legal effect in five years after Ukraine’s accession to the World Trade Organization.

2. The Authorized body within one year from the date of publication of the present Law shall develop and approve of regulations arising from this Law.

The President of Ukraine

No. 2774-IV

of July 6, 2005

Kyiv

V. YUSCHENKO